

## PERMANENT COMMUNITY IMPACT FUND BOARD MEETING

Department of Workforce Services  
Housing and Community Development Division  
Salt Lake City, Utah

### Minutes

Thursday, July 6, 2017

#### **Members Present**

Keith Heaton	Chairman
David Damschen	State Treasurer
Garth "Tooter" Ogden	Six County Association of Government
Steve Farrell	State Board of Water Resources
Naghi Zeenati	State Transportation Commission
Ron Winterton	Uintah Basin Association of Governments
Sonja Norton	Uintah County
Jae Potter	Carbon County
Gregg Galecki	State Board of Water Quality
Jim Matson	Five County Association of Governments

#### **Excused Members**

Bruce Adams	Southeastern Association of Local Governments
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#### **Staff and Visitors**

Candace Powers	Housing and Community Development
Gayle Gardner	Housing and Community Development
Shad West	Housing and Community Development
Cristine Rhead	Housing and Community Development
Brenda Brown	Housing and Community Development
Rebecca Banner	Housing and Community Development
Katherine Smith	Housing and Community Development
Kyle Slaughter	Housing and Community Development
Flint Timmons	Housing and Community Development
Wade Farraway	Attorney General's Office
William Prater	Bond Counsel
Ryan Savage	Savage Albrecht Engineering
Bill Sudweeks	Kingston Town
Maile Wilson	Cedar City
Paul Bittmenn	Cedar City
Darin Adams	Cedar City
Robert Worley	Sunrise Engineering
Tom Sorensen	Centerfield City
Greg Todd	Duchesne County
Travis Kyhl	Six County Association of Governments
Rod Mills	Ensign Engineering
Gary Zabriskie	Five County Association of Governments
Shannon Ellsworth	Rural Community Consultants
Mike Hansen	Rural Community Consultants
Eric Johnson	Blaisdell, Church & Johnson
Kevin Yack	Uintah Basin Association of Governments
Gawain Snow	Uintah Water Conservancy District

Mike McKee	Seven County Infrastructure Coalition
Brian Barton	Jones and DeMille Engineering
Justin Atkinson	Sunrise Engineering
Michael Bryant	Southeastern Utah Association of Local Governments
Terry Allred	Town of Rocky Ridge
Kent Allred	Town of Rocky Ridge
Jacob Sharp	Castle Valley Special Service District
Ryan Roberts	Office of the State Auditor
Rod Dastrup	Holden Fire Department
Tamara Dallin	Holden Town
Troy D. Ostler	CIVCO Engineering
Brian Barton	Jones & DeMille Engineering
Curtis Nielson	Ensign Engineering
Lisa Nelson	Division of Drinking Water
Brian Carver	Bear River Association of Governments
Brad Horrocks	Uintah County
Skyler Davies	Division of Water Quality
Debi Carty	Department of Workforce Services
Bill Stringer	Uintah County
Christina Davis	Department of Workforce Services
Darin Bushman	Piute County
Jack Lytle	Daggett County
Brian Maffly	Salt Lake Tribune

## **WELCOME**

The Permanent Community Impact Fund Board (CIB) meeting was held on Thursday, July 6, 2017 at the Department of Environmental Quality's Board Room at the Multi-Agency State Office Building, 195 North 1950 West, Salt Lake City, Utah and was called to order at 8:30 a.m. by Chairman Keith Heaton.

## **ADMINISTRATIVE ITEMS**

### **Financial Review**

Candace Powers reviewed the status of the funds for today's meeting. There are eight new projects, one Request for Special Consideration, and five items for Board discussion.

### **I. WELCOME AND INTRODUCTIONS**

Chairman Heaton welcomed everyone and asked Board members and staff to give introductions.

### **II. APPROVAL OF MINUTES**

Chairman Heaton requested a motion to approve the minutes from the June 1, 2017 meeting.

**David Damschen made and Naghi Zeenati seconded a motion to approve the minutes from the June 1, 2017 meeting as corrected. The motion carried unanimously.**

### **III. NEW PROJECTS**

#### **1. Holden Town (Millard County)**

Holden Town presented a funding assistance request for a \$40,000 grant for the construction of a 40' X 60' wild land fire storage building for fire trucks and equipment next to the existing fire station. Millard County Fire District is contributing \$40,019 cash.

The applicant indicated that Holden Town has a volunteer fire department with 23 firemen. The fire department has been able to acquire custom firefighting equipment that is military surplus but currently this equipment is parked next to the fire station and is subject to all weather conditions which can lead to damaged equipment. The fire storage building will protect and maintain the equipment.

The applicant stated that the Town of Holden has no tax base. Town revenue comes from electricity sold to citizens. A loan would strain the minimal Town budget.

The Board asked if the floor would be cement and heated as the price quote was quite low. The Board also asked about cost overruns.

The applicant indicated the floor will be concrete and the building will be heated. They have intended to keep the costs low. The building has been bid and so the project cost should be as requested. The Millard County Fire District funding indicated on the application is to match the CIB funding.

The Board asked how the department acquires their equipment.

The applicant stated there is a surplus program which allows them to acquire surplus military vehicles. The fire department retrofits the trucks to fire-fighting equipment standard.

The Board asked about possible fire-fighting revenue.

The applicant indicated the fire fighters must be certified red card in order to receive payment on BLM or Forest Service Fires. The applicant stated that the Town does not charge the fire department for their fuel and contributes in that way.

The Board asked who would be the owner of the building.

The applicant indicated that it would be the Fire District. The original building is owned by the fire department built by fire department volunteers.

The Board asked why the Fire District was not the applicant.

The applicant indicated that the town was advised to apply.

The Board indicated that the Millard County Fire District should be the official applicant as the owner of the building.

**Naghi Zeenati made and Tooter Ogden seconded a motion placing this project on the Priority List for funding consideration at the October 5, 2017 funding meeting as a \$40,000 grant with Millard County Fire District as the official applicant. The motion carried unanimously.**

The Board suggested that the Fire Department ensure all fire fighters are current on the red card and requested that the Millard County Fire District, as the applicant, provide an annual budget.

## 2. Centerfield City (Sanpete County)

Centerfield City presented a funding assistance request for a \$140,000 loan for 20 years at 2.5% interest and a \$140,000 grant (total \$280,000) for the construction of a 53' X 20' restroom and storage annex 150 feet south of the Old Rock Church building. The applicant is contributing \$30,000 in-kind (land).

The applicant indicated that the Old Rock Church is used on a regular basis for senior citizen functions, parties, wedding receptions and other activities but has no restrooms. They currently unlock the city office building to provide access to the restroom.

The applicant owns the Old Rock Church and has restored the building using Centerfield City funds. There are at least two events per week held at the Old Rock Church. The Old Rock Church cannot be remodeled because it is on the Historical Register. This will be a freestanding annex south of the historic building connected through a short breezeway. The annex would include two restrooms, a bridal room, a serving area and a storage room for tables and chairs.

The Board referred to the high cost of the annex construction.

The applicant indicated that it includes driveway, services to the building and matching the architecture of the historic building. Bathroom and kitchen remodels are expensive. The building generates approximately \$200 dollars a month currently but with the restroom annex would hopefully generate more revenue.

The Board asked about their cost of renovating the Old Rock Church building.

The applicant indicated the building was purchased for \$90,000 and the remodel was \$100,000 through donations and sales tax. The building is utilized about twice a week but with the restroom annex it would be more.

The Board suggested a 75% loan and a 25% grant which would be a \$400.00 increase annually.

**Gregg Galecki made and Steve Farrell seconded a motion placing this project on the Priority List for funding consideration at the October 5, 2017 funding meeting as a \$210,000 loan 30 years at 2.0% interest a \$70,000 grant (total \$280,000).**

After further discussion, a substitute motion was made.

**Tooter Ogden made and Jim Matson seconded a substitute motion placing this project on the Priority List for funding consideration at the October 5, 2017 funding meeting as a \$140,000 loan for 20 years at 2.5% interest and a \$140,000 grant (total \$280,000). The motion carried with Jim Matson, Ron Winterton, David Damschen, Tooter Ogden and Naghi Zeenati in favor and Gregg Galecki, Steve Farrell, Jae Potter and Sonja Norton opposed.**

### 3. Gunnison City (Sanpete County)

Gunnison City presented a funding assistance request for a \$58,500 grant to include 2,620' of sidewalk from Hwy 89 (Main Street) to 300 East (3 blocks total) where the Gunnison Valley Elementary School is located. The project includes 15,720 square feet of soil removal, prep sub grade and installation of 4" road base under new sidewalk, 2620 linear feet of 6' sidewalk, removal of 880 square feet of existing sidewalk, two asphalt driveways and one concrete driveway, 1 each demo and fill concrete box, 2,904 square feet of 6" sidewalk, unreinforced through driveways and access to properties along 500 South, 484 linear feet x 6' wide, 12,816 square feet of 4" sidewalk unreinforced at 500 South, 2,136 x 6' and 350 linear feet of 1/2" expansion-furnished and installed. The applicant is contributing \$19,500 cash.

The applicant stated there are driveways which will be replaced.

The Board indicated that sidewalks in front of private homes are generally considered homeowner responsibility and asked if the individuals would be contributing to that improvement.

The applicant indicated that there are no sidewalks on that half mile of 500 South between Highway 89 (Main Street) and 300 East which is one of the main routes used by the children walking to each of three schools which is a dangerous street. The applicant acknowledged the point of property improvement but referred to their small town size and significant debt. They have not requested property owners to contribute because of the safety circumstance. They have applied for safe school grants and CIB was considered as one of the resources for this improvement. This has been a community concern and priority; a half mile long 6' wide sidewalk on the South side of the road.

Wade Farraway, Assistant Attorney General representing the Board, asked how many homes would be getting new sidewalks and would this not be increasing the property value of those homes without asking for any assessment for the improvements indicating a concern that this funding may be perceived as a pass through to the benefit of private property owners.

The applicant indicated that perhaps there are 8-10 homes of which 2 might be willing to participate. There is no plan to assess at this time as most property owners would be against financial participation. It is considered a safety issue.

The Board asked if other funding sources had been considered such as Safe Schools funding.

The applicant indicated that this project does not fit the Safe Schools criteria. It is not on a State highway and though it is a dangerous road, there have been no incidents.

The Board asked how much they would receive from the new Prop 1.

The applicant indicated that the revenue from Prop 1 is new and appears to be approximately 30,000 but they were not sure if they have received any of that funding at this time. It might be considered to accommodate a half grant half loan funding scenario if necessary for this project.

The Board asked if the Board could legally fund this as presented if the project was considered a pass-through to homeowners. Legal Counsel indicated it could not.

The Board requested that the City discuss the possibility of a property tax assessment with the homeowners improved by the sidewalks.

**Ron Winterton made and Tooter Ogden seconded a motion placing this project on the Pending List to allow the City to discuss assessment of the properties involved. The motion carried unanimously.**

#### 4. Rocky Ridge Town (Juab County)

Rocky Ridge Town presented a funding assistance request for a \$90,000 grant for a 300 South Road Project. The project consists of reconditioning .06 mile of 300 South and .04 miles on Lark Ridge Road with 184,800 square feet of fine subgrade, and 6 520 ton of state spec road base. The town will provide labor, fuel and equipment to complete the job and the bank run fill is being donated by a local community member. The applicant is contributing \$10,000 cash.

The applicant indicated this project is for road base on 300 South and Lark Ridge Road which ties into this road. This road is a priority to the Town because the Town has received funding for a new well through the Drinking Water Board. 300 South was prepared to get access to the well and to accommodate the necessary utilities and connect the new well to the current water system. Lark Ridge Road will also tie in infrastructure.

The applicant will not pave the road at this point. There is still a lot of infrastructure that may be cutting across the roadway. The road will be bank run fill and this application is for road base gravel which will be placed on top of the bank run.

The Board asked the applicant if they have approached UDOT for assistance.

The applicant stated they have applied to the Joint Highway Committee and this road does not meet collector status. It may be possible in the future.

The Board asked the applicant if they could accommodate a loan and keep the \$10,000 that they were going to put into the project.

The applicant stated that a loan may be possible.

**Ron Winterton made and Jim Matson seconded a motion placing this project on the Priority List for funding consideration at the October 5, 2017 funding meeting as a \$100,000 loan for 10 years at 1.0% interest. The motion carried unanimously.**

#### 5. Cedar City (Iron County)

Cedar City presented a funding assistance request for a \$600,000 loan for 15 years at 2.5% interest and a \$665,000 grant (total \$1,265,000) for a new animal shelter. The project consists of constructing a 5,000 square foot building to serve as a new shelter. It will have dog kennels, cat kennels, staff offices, a public area, storage and state of the art drainage and ventilation systems. Outdoor space will be developed to hold larger animals when needed. Additional outdoor space will be used for socialization of animals and prospective adoptive families.

The applicant indicated that the shelter is a no-kill shelter and they work to adopt as many animals as they can. Enoch City has been in discussion as possible partners. The applicant has acquired some land one block from the current shelter which will accommodate a joint shelter.

The Board asked about the existing shelter.

The applicant indicated that the current 50 year old shelter was a 1,100 square foot cold storage facility. The building was never intended to house animals and renovations have been made to the building in an attempt to make it a functional animal shelter. The HVAC and drainage systems are inadequate and the office is now in a neighboring building with storage for food and supplies in a shed. There is a concern about spreading disease through the housed animal population as there is insufficient space to quarantine those animals. The staff has been very good at working with the conditions. They have pursued animal adoptions and worked with animal sanctuaries to place animals and pursue the no-kill status.

The Board asked about plans for the current building.

The applicant indicated that the building is on a parcel of land by a gravel mining company and the bulk of the property is in a long term lease with a trap shooting club. The building is old and it is doubtful it could be leased. It may be utilized as storage for equipment, not people.

The Board discussed terms and payments.

**Jae Potter made and Gregg Galecki seconded a motion placing this project on the Priority List for funding consideration at the October 5, 2017 funding meeting as a \$1,265,000 loan for 30 years at 2.5% interest.**

The applicant asked if the Board would consider a payment deferral until 2021.

It was indicated that though the payment is deferred, the interest will accrue.  
The motion will not include a deferral.

The Board indicated that revenues from Iron County connote a loan and asked if discussions were continuing with Enoch and Iron County encouraging the joint accommodation of the animal facility.

The applicant stated that joint discussions are ongoing. Cedar City is in favor but there is some opposition from the other entities.

The Chairman called the question.

**Jae Potter made and Gregg Galecki seconded a motion placing this project on the Priority List for funding consideration at the October 5, 2017 funding meeting as a \$1,265,000 loan for 30 years at 2.5% interest. The motion carried unanimously.**

#### 6. Town of Virgin (Washington County)

The Town of Virgin presented a funding assistance request for a \$142,000 grant for the Kolob Terrace Box Culvert. This project consists of installing an 8' X 8' box culvert with 8' wing walls on both ends to prevent water from cutting into the bank and causing erosion on the south side of the road. The applicant is contributing \$10,805 cash.

The applicant indicated that the Kolob Terrace Road is one of four paved roads that lead into Zion National Park and this road is the only paved road that leads to Kolob Reservoir. This has become a significant and dangerous problem. The Town placed Jersey Barriers as a temporary solution. Rain continues to escalate the problem. The cost has decreased as BLM will provide an area for a catch basin and the County has contributed labor. There will be a smaller culvert. Had it been 200 yards up the road, it would be a County issue. The applicant has worked with various agencies to mitigate this issue.

A Board member has viewed the issue and concurs that it is a serious issue. The Board asked why the other stakeholders are not assisting.

The applicant indicated that everyone is helping and through that help, the cost has been reduced by half. There has not been financial assistance from any other source. The Town of Virgin has been maintaining this roadway, but earlier runoffs have continued to erode this area.

The Board asked how long the existing culvert has been in place.

The applicant stated that it has been in place for 10 years but is undersized.

**Naghi Zeenati made and Steve Farrell seconded a motion to suspend the rules and fund this request as a \$142,000 grant. The motion carries with Jae Potter, Ron Winterton, and Gregg Galecki opposed.**

#### 7. Kingston Town (Piute County)

Kingston Town presented a funding assistance request for a \$650,000 grant for the Town Hall remodel and addition. The project consists of remodeling the existing 2,329 square foot Town Hall, replacing the electrical system, remodeling the kitchen, and removing the existing non-ADA compliant restrooms. The remodel also includes removal of walls, sheet rock, texturing, painting, and adding

new cabinets and appliances as well as new windows. The addition will be 1,083 square feet and will include a pavilion kitchen, ADA restrooms, office space for the town clerk and a meeting space for senior citizens, chairs, tables and parking lot.

The applicant indicated that the building is 100 years old, built originally as a school house, then converted to an LDS Church. Then in the '70's it became a Town Hall. This building is not ADA compliant; the electrical is quite antiquated. The remodel will make the building usable.

The Board acknowledged the Town of Kingston and Piute County may be one of the poorer areas of the State with no way of generating revenue.

The applicant indicated that their general fund is around \$19-20,000. A lot of work is done by volunteers. Many of the citizens are senior citizens and willing to help.

The Board indicated that the building would require operation and maintenance costs and indicated a possible difficulty in maintaining the building in the future. Annual revenues would not cover a loan payment, increased utilities, etc.

The applicant indicated that the Town could maintain the building utilizing the community and they did not anticipate a significant increase in the utility bills. The town clerk is part time and would require a temporary relocation perhaps at the County building. The applicant does wish to keep this as a town building.

The Board stated that this is a large funding request without other financial participation. It is understood that the budget is small and the remodeling and maintenance is needed.

The applicant indicated that what is needed is a usable building for the many events of the Town and referred to a few new buildings in similar rural towns. The applicant stated they are not any different. The building requires maintenance and the budget could not accommodate a \$15,000 annual payment for a loan.

The Board suggested that the project be put on the Pending List to allow the applicant an opportunity to review the scale of the project, accommodate what would be reasonable, necessary and affordable or do the project in phases.

**Gregg Galecki made and Ron Winterton seconded a motion to place this project on the Pending List with a request for a revised scope of the project. The motion carried unanimously.**

#### 8. Piute County (Piute County)

Piute County presented a funding assistance request for an \$81,500 grant for the repair of the Otter Creek Bridge, located just below the dam at Otter Creek Reservoir. This project consists of repairing the bridge by replacing the bridge deck, and installing new support beams. The bridge approaches will also be repaired.

The Bridge, which is on the Piute ATV Trail System was condemned by UDOT on May 26, 2016.

The applicant indicated that the County is 84% federal land. They have a 5 man crew which maintains their roads and a contract with the Forest Service to mechanically maintain their roads for \$15,000 a year. There may be a \$150,000 cut due to SRS (Secure Rural Schools) which currently goes into the road fund. Piute County now has turkey farms which they are happy to have but UDOT required a turn lane with an expense of approximately \$150,000. Budgets are tight and now the



bridge is condemned. It is closed to vehicle traffic but ATV traffic is allowed as a safety precaution. Otherwise the ATV traffic would be on Highway 62 & 24. The bridge is important. The cost challenge is getting the crane on site from Provo which is approximately 1/3 of the cost.

**Jim Matson made and David Damschen seconded a motion to place this project on the Priority List for funding consideration at the October 5, 2017 funding meeting as an \$81,500 grant for the repair of the Otter Creek Bridge.**

The Board asked if a parallel trail on the side of the roadway had been considered.

The applicant indicated that UDOT is not in favor of parallel ATV lanes and also, there are utilities crossing with the bridge.

The Board acknowledged the limited budget of the County and the critical need of the bridge. The Board asked if there has been a maintenance plan.

The applicant indicated there is a maintenance plan and they have maintained the bridge but this is maintenance of the substructure which requires the removal of the bridge deck. This is not a UDOT bridge.

The Chairman called the question.

**Jim Matson made and David Damschen seconded a motion to place this project on the Priority List for funding consideration at the October 5, 2017 funding meeting as an \$81,500 grant for the repair of the Otter Creek Bridge**

The Board asked if this was an emergency and could the crane be mobilized to facilitate this repair prior to the October 5, 2017 funding meeting.

The applicant indicated it was a critical need.

The motion was amended.

**Jim Matson made and David Damschen seconded a motion to suspend the rules and fund this project as an \$81,500 grant for the repair of the Otter Creek Bridge. The motion carried unanimously.**

#### **IV. SPECIAL CONSIDERATION**

##### **1. Castle Valley Special Service District (Emery County)**

On September 3, 2014 Castle Valley SSD's funding request was advanced to the Priority List and on October 2, 2014 the project was funded as a \$1,350,000 loan for 15 years at 1.5% interest and a \$1,350,000 grant (total \$2,700,000) for improvements to the Ferron Water Treatment Plant. The project consists of constructing a new 5,000 square foot 1.0 MGD capacity water treatment plant with on-site sodium hypo chlorination generation for disinfection and equipment to include effluent pumps, flow meters and a SCADA system. The new treatment plant will be located at 115 West Mill Road in Ferron to replace the existing 33 year-old water treatment plant.

**Total Funding Request: \$2,700,000 (\$1,350,000 loan for 15 years at 1.5% interest and a \$1,350,000 grant).**

**Jae Potter made and Bruce Adams seconded a motion to fund [this project] as advanced to the Priority List. The motion carried unanimously.**

Castle Valley SSD contacted the CIB staff requesting time on the July 6, 2017 agenda to discuss a change in the scope of work to include the purchase of a forklift for the treatment plant.

The applicant indicated that the water treatment plant is completed and is requesting a change of scope to include the forklift for use at the Ferron Water Treatment Plant to accommodate moving chemicals for the water plant and salt for the sodium hypochlorite generator within the plant utilizing the funding previously awarded for the plant.

The Board acknowledged there would be no additional funding.

**Ron Winterton made and Tooter Ogden seconded a motion to approve the change in the scope of work on this project to include the purchase of a forklift for the Ferron Water Treatment Plant. The motion carried unanimously.**

## **V. BOARD MEMBER DISCUSSION AND/OR ACTION ITEMS**

### **1. Board Disclosure Statement Signed & Notarized**

The required Disclosure Statements were signed by each Board member at the meeting and notarized by Annette Despain from HCD during a 10 minute break.

### **2. Infrastructure Set Aside Funding – reallocation to ML Fund.**

Chairman Heaton referred to the status of the Infrastructure Set Aside. It had been discussed at the June 1, 2017 meeting that funding be reallocated for use in the Mineral Lease Fund.

Chairman Heaton referred to the Infrastructure Fund balance on the project summary pages. This was set aside for large infrastructure projects. As new Mineral Lease funds are being allocated to road projects through a UDOT program, it was suggested at the June meeting to reallocate \$10,000,000 into the Mineral Lease account to accommodate the current deficit and put more of the funds toward current projects with a stipulation that 25% be as loan.

Ms. Powers indicated that during FY2016, only 2% of the Mineral Lease balance was allocated as loan. By statute, the fund should be revolving.

Chairman Heaton indicated it was up to the Board to specify a required percentage as loan with the reminder that the Bonus Fund must be allocated in the form of an interest bearing loan.

Mr. Galecki suggested a minimum of 50% to be awarded as loan.

**Gregg Galecki made and David Damschen seconded a motion to reallocate \$10,000,000 from the Infrastructure Set Aside to the Mineral Lease Fund with the stipulation that \$5,000,000 (50%) be used for loans.**

Commissioner Potter suggested that Regional Planners educate and encourage communities to come prepared to take the funding as a loan acknowledging that the Board has been generous. We cannot fix every community's problems but acknowledged that there will be some that truly need help. He concurred that 50% as loan is appropriate.

Mr. Zeenati asked if it was necessary to put a requirement on the funds.

Ms. Powers indicated that the Mineral Lease funding can be provided as a grant or a loan even at 0% which currently has no required amount as loan. The Bonus Fund must be allocated as an interest bearing loan; at least 1% interest.

Chairman Heaton indicated this would be a new policy. This does not affect the ability to provide grants where truly needed, but community planning for the future and prudent maintenance is critical.

Mr. Galecki asked if there would be some clarity as to the \$10,000,000 for tracking.

Chairman Heaton indicated there would be transparency.

Commissioner Matson asked if there would be a fixed interest rate and expressed support for the 2.5% rate.

Commissioner Ogden referred to there being a lot of money in the Bonus Fund which can go out at 2.5% interest.

Chairman Heaton indicated that generally Mineral Lease is a 0% interest loan as the Bonus Fund must be an interest bearing loan.

Mr. Farrell expressed concern for communities that have emergency needs and a requirement to provide a mandatory loan.

Chairman Heaton referred to the Infrastructure Set Aside Fund which is all Mineral Lease Funds and therefore can be grant and loan.

Commissioner Ogden indicated that if the State fund interest rate is 1.25%, to lend at 1.0% is losing money.

Chairman Heaton referred to applicants that are poor communities and have little ability to accommodate their needs.

Mayor Norton indicated that there should be planning and maintenance schedules; assessment of needs. Tax increases might be necessary to fund what is needed. It may not always be accommodated through the CIB. Educate the smaller communities that need help in assessing and planning for the future, instead of dealing with surprises. Some might be emergencies caused by natural occurrences.

Chairman Heaton stated there is no lack of planning and funding assistance for planning. The Board funds planning through RPP, RPG and through planning projects brought to the Board. Planning efforts have increased and hopefully the Board will see the fruits of those planning efforts as communities are better prepared with better understanding of planning and appreciated the comments.

The Chairman called the question.

**Gregg Galecki made and David Damschen seconded a motion to reallocate \$10,000,000 to the Mineral Lease Fund with the stipulation that \$5,000,000 (50%) be used for loans. The motion carried unanimously.**

### 3. Special Service District Districts Discussion

Chairman Heaton provided a report released by the Legislative Auditor in June 2017 regarding Special Service Districts which causes concern. CIB is often the source of public funding for Special Service District projects. The report stated the following:

- 20 entities were audited by the State of Utah in the last three years

- 8 of the 20 were reported having fraud, waste and abuse
- 12 of the 20 had weak controls and poor policies and procedures

The Mineral Lease Funds are public funds and the Board has responsibility for those funds so though it is difficult, it is the Board's responsibility to ask the difficult questions.

Chairman Heaton stated that the staff and I take this stewardship very seriously; as does the Board. Let us continue to make certain we are doing everything we can to assure procurement etc. is done correctly.

#### 4. Uintah County Municipal Building Authority – Canal Project & Funding

This project was brought before the Board in 2016. There are three canals in Uintah County that deliver secondary water. The Canal companies were planning to pipe the water as a measure to reduce salinity and water loss. The canals have been open and have also been utilized as a flood channel. The Board authorized a \$2,727,000 loan for 30 years at 0.0% interest and an \$8,179,251 grant (total \$10,906,251) to purchase rights of way in the Highline, Ashley Upper and Rock Point canals to leave them open and to build a detention basin and install pipe culverts and drainage structures.

Ms. Powers indicated that since funding authorization, a flood study was conducted of the entire valley which has provided better information. Also, as the process of bonding for this funding moved forward, other issues were brought to light including the possibility of a delay beyond August 1 putting matching funds at risk. It was determined that more clarity should be given to the Board prior to issuing the bonds.

Uintah County Commissioners Bill Stringer and Brad Horrocks did not request this project to be on the agenda but were present to discuss the issues.

Commissioner Stringer indicated the project has changed somewhat since it first appeared before the Board in 2016. Only one canal is actually moving forward to be piped. The County wants to look at what is going to be piped and assess what control will be necessary. It was stated that Uintah County is looking at what is the value; what is being acquired and what is the collateral for the loan.

Commissioner Horrocks indicated that if this project moves forward, it will be a good project but there are a lot of unanswered questions.

Ms. Powers referred a question to Eric Johnson concerning the August 1 deadline.

Mr. Johnson stated his question to the CIB staff was if prescriptive easements from the canal companies would be acceptable or would the question need to be posed to the Board. And at a June commission meeting it was indicated by the canal companies that there was pressure from the Bureau of Reclamation to get a final decision by August 1.

Ms. Powers referred to two questions:

1. Is this a pass-through?
2. Will the Board accept prescriptive easements?

Mr. Galecki asked if the August 1 date was regulatory.

Gawain Snow, Uintah County Water Conservancy District indicated there was over \$4,000,000 from the Bureau of Reclamation for these projects of which \$3,000,000 is for the Ashley Upper and Highline Canals. There is another opportunity for funding coming out August 15. The Bureau of Reclamation (BOR) has asked if the project is moving forward. The BOR is not withdrawing funding so there is not an August 1 deadline, but requested reassurance that the project is going to happen.

Chairman Heaton suggested that project funding was authorized which should be sufficient. Mr. Snow confirmed that the authorization should be sufficient.

Commissioner Stringer divided the canal segments into two separate items and stated it does not have to be all or nothing. The canal company that is going to pipe regardless has obtained deeds through the landowners. The majority of that canal will allow access and construction needed as security. Part of the problem has been solved though there is still a prescriptive easement issue.

Mr. Zeenati requested the Attorney General's opinion on prescriptive easement as a tangible deed.

Bill Prater, CIB Bond Counsel stated the Board needs to make certain that there is an acquired asset or valid title verified through the County Attorney's opinion.

Mr. Zeenati asked if the County was working on acquiring an asset or valid title.

Commissioner Stringer stated they have been working with the County Attorney who has indicated the prescriptive right-of-way exists. The flood control plan also requires debris basins upstream on either BLM or SITLA lands. No right of way discussion has been initiated yet with those agencies. An August 1 deadline could not be accommodated.

Mr. Prater indicated that the Board must also make the determination that this is not a pass-through to the private sector. In the initial funding request it was stated that this is what the canal company needs to finish their funding package. It is unclear what the canal company is going to transfer to the County. The Board needs to confirm that this project does not involve an improper "pass-through" of CIB funds to the irrigation companies and the County needs to demonstrate that it is acquiring an asset that can be pledged as security for a building authority lease revenue bond.

Mr. Damschen referred to the project as an unperfected security interest. From a risk management standpoint or a business decision standpoint this is an unsecured extension.

Mayor Norton compared this to funding streets which are not deeded or owned, they are a prescriptive easement.

Ms. Powers stated that the revenue source on streets and roads is B&C road funds. This project has not provided a tangible asset. The County has said this repayment would come from the general fund.

Wade Faraway, CIB legal counsel stated if the money is not going to the canal companies and there is no pass through, this is a valid project and asked if monies were going to private canal companies that will give them a benefit other than paying for the right-of-ways.

Commissioner Horrocks stated no.

Commissioner Stringer indicated he was uncertain; no value has been placed, no assessment has been made. They were not prepared to have this discussion.

Ron Winterton, Commissioner from Duchesne indicated that in Duchesne County, the canals have been covered over and buying the land for flood coverage would not be affordable. He supports the opportunity for Uintah County.

Commissioner Ogden asked who was responsible for the loan.

Commissioner Stringer indicated that the County would write the check utilizing money from another source.

Eric Johnson, bond counsel stated that the building authority leases the project to the County who would sublease to the water conservancy district.

Chairman Heaton thanked the commissioners acknowledging that at this point there isn't any action the Board can take.

#### 5. Board Request – Seven County Infrastructure Funding Allocation Discussion

Chairman Heaton indicated that this is a request from Board members for a follow up discussion after the June 1, 2017 policy meeting presentation by Seven County Infrastructure Coalition.

Ms. Powers referred to the June 1, 2017 policy retreat when the Coalition provided a good presentation after which the Board had some additional questions requesting a review of legal, study and administration expenses and purpose in regard to this project. The project was funded in 2015 as the Board had notice of two opportunities for transportation infrastructure funding: federal funding for a Basin municipal rail spur to connect with the rail hub at Helper for which UDOT had done initial corridor study determining a possible route. The CIB funded a \$5,000,000 Eastern Corridor Study to further that study and continue assessing transportation and infrastructure possibilities on the eastern side of the State. The Board approved \$50,000,000 to leverage a large federal municipal rail loan but the rail project was prohibitively more expensive and the \$50,000,000 was returned. The \$5,000,000 study would continue to identify and plan for, procure the funding for, permit, secure rights-of-way, and assess the infrastructure assets of the eastern side of the State. The Coalition then amended the scope to a \$3,000,000 study and \$2,000,000 in administration and received Board approval. The Board has requested a discussion of the expenditures to date and the status of the Eastern Utah Infrastructure Corridor study.

The CIB staff Gayle Gardner and Brenda Brown discussed the reimbursement process for all CIB projects and the financial summary thus far for SCIC. \$1.7 million has been expensed for the study and nearly \$1.1 million expensed for administration, \$465,118 in wages and \$377,488 in legal expense.

Chairman Heaton asked if the 2 year grant contract was renegotiated in April of 2015.

Ms. Gardner indicated that the contract was amended and now expires in August of 2018.

Mr. Damschen reaffirmed with staff that the original scope was for \$5,000,000 in planning, the change of scope made one change to take \$2,000,000 of the \$5,000,000 and allocate it to administrative expense and asked for a comparison of this recipient in terms of documentation with other project funding recipients.

Ms. Gardner indicated that this is not a typical project and that the scope of work change did not define administration. There have been meetings, phone calls and emails to discuss documentation and define eligibility in terms of the scope of work.

Brenda Brown discussed the documentation provided indicating that the summary is based on standard projects. The summary indicates wages, legal and engineering. Most projects indicate what percentage has been done. The summary of engineering is based on their invoices and a budget allocation for components of the project had been provided. Currently the larger items have been fully expended and it appears the project is close to being completed based on invoices and timing.

Gregg Galecki noted that almost \$2 million of the \$3 million study has been expensed.

Ms. Brown said based on historical review and interpretation of studies it has.  
Mr. Galecki noted the administration funding amount expensed.

Ms. Brown stated that \$1.2 million has been spent and \$800,000 for administration remains.

Mr. Damschen noted that \$1.7 million has been spent for the study and nearly \$1.1 million spent for administration with \$465,000 in wages and \$377,000 in legal expense.

Mr. Galecki asked how many employees were compensated with the \$465,000.

Ms. Brown referred to the summary indicating wages for one executive director.

Mr. Damschen asked about the executive director salary and it was indicated including retirement, insurance and salary is \$18,000 a month.

Mr. Galecki asked what was produced in the Eastern Energy Assessment Plan.

Chairman Heaton invited executive director Mike Mckee to address the Board.

Mr. Johnson asked to speak first stating that the Community Impact Board receives attorney/client privileged information. Since this is a public meeting, the Coalition continues to assert that attorney/client privilege.

Mr. Damschen asked if he had marked those items such that we'll know what they are.

Mr. Johnson said anyone that I speak to for my client, who I speak to, that is privileged. The subject that we speak about, that I work on, that is privileged. The Board has been provided some of that detail and requested that privileged items not be discussed in an open and public meeting.

Mr. Damschen asked the Coalition about the executive director's salary.

Mike Mckee, SCIC executive director stated that Senator Okerlund's salary was \$175,000 a year and his salary is \$160,000 a year. He believes there has been unanimous support from the Board and referred to a difference from what the staff sees and what the understanding was when the Coalition began. The Coalition believes that when the Coalition began, this was an ongoing process. It was indicated when Senator Okerlund appeared a year ago to the Board that this was to be the sole source of funding. He stated this is a little different than typical CIB projects as the Coalition is regional. They are working on public private partnerships; things that could not be done by a county or a city. The Coalition does have a vehicle which has not been submitted for reimbursement and they have hired a grant writer. He stated that CIB funds are Mineral Lease revenue. Oil and gas prices are down and there's a war on coal. The Coalition has looked at the pipeline, and discussed rail. The study that was done by UDOT showed \$6-7 billion dollars to put rail in the basin which was not affordable but perhaps it can happen in the future.

Chairman Heaton indicated that in the interest of time we will go to the specific questions.

Mr. Damschen expressed a desire to get to questions, facts and information. When the Coalition was approved for the grant there were four members of the Coalition also on the CIB Board. (Yes) One of the Board members was an investment banker. (Yes) That investment banker was mentioned in the ongoing activities of the Coalition. This information applies to the context of the unanimity of the support referring to oil prices at that time being over \$90 a barrel, now less than half that. The statute indicates use of funds for planning, construction and maintenance of public facilities, and provision of

public services, not planning, planning, and planning. He also referred to the responsibility with regard to the Open and Public Meetings Act and the administration of the website.

Mr. McKee accepted responsibility for Coalition practices and indicated having training of the Open and Public Meetings Act.

Mr. Damschen referred to their website which has board and staff listing Mr. McKee and Seth Oveson as treasurer, Mr. Johnson under legal services. Is Mr. Johnson part of staff or on contract?

Mr. Johnson indicated he is contract.

Mr. Damschen stated that Mr. Johnson is providing legal services on contract and the legal expenses to date are \$398,170 as of May 31, 2017 and asked if the Coalition contracts with other attorneys.

Mr. Johnson stated that it is primarily his law office. The Coalition has also contracted with Gary Dodge on electrical projects.

Mr. Damschen asked about following the procurement code.

Mr. Johnson stated that as an inter-local entity, the procurement code expressly does not apply to inter-local entities.

Mr. Damschen asked if there was a procurement process or an RFP issued to evaluate other attorneys and procure competitively for the \$398,000 line item in legal services.

Mr. McKee stated he does not believe there was a competitive process.

Mr. Damschen asked how many P3 finances Mr. Johnson has served on as bond counsel or general counsel.

Mr. Johnson indicated that he had served on a dozen or more. Most bonding he does is tax exempt and there isn't a private element.

Mr. Damschen referred to the RFP for an infrastructure project consultant with a response deadline of February 22, 2015. In the 2014 minutes it was indicated that there were only about 10 engineering firms in the entire country that could provide the type of planning and study services for which the Coalition planned to contract and asked which of those 10 firms received the RFQ, and who drafted the RFQ.

Mr. Johnson indicated that the RFQ was widely publicized with 3 responding engineering firms; Sunrise, Jones and DeMille, and Parsons Brinkerhoff. He was involved in drafting the RFQ along with Mr. Jeff Holt, Bank of Montreal.

Mr. Damschen referred to the RFQ being issued on February 2 and a contract executed 4 days later with Jones and DeMille on February 6. He asked who served on the evaluation committee and how the responses were scored.

Mr. Johnson stated that the Coalition Board participated in selecting Jones and DeMille.

Mr. Damschen indicated that RFQ's are typically used to create a pool of pre-qualified. The Coalition RFQ was extremely broad. *He requested that the documentation from the procurement contract be*



*provided to the Board.* He asked about the Jones and DeMille funding acquisition under scope of work.

Mr. Barton stated it to be the identification of potential funding opportunities and sources that could be used for consideration in projects.

Mr. Damschen asked if Jones and DeMille is a registered municipal advisor and it was indicated they are not. He also referred to closing a portion of every Coalition meeting.

Mr. McKee indicated their closed meetings are all according to State law and with legal counsel before going in concerning personnel, acquisition, and property.

Mr. Damschen referred to Coalition By-Laws which indicate they are subject to the Money Management Act. But the Money Management Council hasn't received the required deposit investment report for the Coalition. Twice a year investment reports are to be submitted to the Council. He referred to public private partnerships wherein private investors want high density significant substantial long term revenue stream options that will draw private capital. It will be a steep climb for rural Utah. He said \$3 million dollars has been spent with more requests anticipated which includes two additional requests outside of that initial \$5 million dollar grant. Hopefully one will be realized and access private capital. Private capital carries a much steeper price tag than public municipal debt, and when we issue municipal bonds the taxpayer is responsible for those costs. He suggested it is economic development with commercial ties and questioned what is being pursued including the swinging bridge, the coal port and a municipal rail project which have fallen by the wayside. There is legal expense, engineering expense and significant salaries with no ongoing revenue source other than grants from CIB. He stated the Board should be concerned about its fiduciary responsibility. He expressed appreciation for the Coalition answering his questions.

Chairman Heaton asked if there were any other questions from the Board.

Commissioner Ogden asked about the petroleum pipeline feasibility.

Mr. McKee said the study is wrapping up and may be finalized in October.

Chairman Heaton asked if the completed project would be shared with the Board.

Mr. McKee indicated an executive summary will be shared with a portion that will be protected information. He suggested a closed session to discuss the study.

Commissioner Ogden asked about the responsibility of the Board concerning this funding.

Chairman Heaton indicated that initially there was crossover between the two organizations as far as Board members which has subsequently changed. The presentation at the retreat was to provide information on how CIB money is being spent. There is still money left on this contract; a significant amount. The expiration is approximately a year away and the Board will have a decision to make.

Mr. Zeenati requested clarification on expense items; what is the insurance and is it mandatory?

Mr. Johnson indicated it is a general liability policy with UCIP (Utah Counties Indemnity Pool) and suggested it is wise to have insurance as with any other public body, with standard insurance pools that insure public bodies.

Mr. Zeenati asked about the \$42,000 expensed for broadband.

Mr. Johnson indicated this to be one of the public/private partnerships considered by the Coalition. The Utah Education Network approached the Coalition to help facilitate getting broadband into underserved areas in Daggett County and in San Juan County.

Mr. Barton indicated this included getting broadband into remote rural areas, dealing with federal and tribal entities, identifying rights of way and basically helping Utah Education Network with procurement and permission to build the broadband in these areas.

Mr. Zeenati suggested phone systems and land lines are funded by taxes and asked how this is different.

Mr. McKee stated that the most rural communities don't have broadband. Daggett and San Juan Counties are underserved areas. Both those projects will be served by private companies.

Mr. Johnson stated the Utah Education Network had tried to bid out getting broadband extended down into San Juan County and the private provider backed out of their bid. They were in the process of qualifying for 90 to 95% federal grant on over \$10 million dollars in projects. Those projects are going to go ahead without the Coalition's involvement.

Mr. Zeenati asked for an explanation of the \$53,638 charge for CIB issues.

Mr. Johnson reminded the Board that he felt some of these things are attorney/client privileged. It was not a label he had given. There have been numerous concerns raised by staff or Board members that the Coalition has tried to ensure they were following legal processes including the researching of legal matters in response to questions arising from staff or Board.

Commissioner Ogden referred to the SCIC being approached to help with the broadband down in San Juan and Daggett County and asked if they might have utilized the planners.

Mr. Barton made the distinction that the Coalition's focus is on infrastructure. The AOG planners, the Regional Planners are great at reviewing projects at a very broad, less technical level. The Coalition has infrastructure data, expertise, knowledge, and relationships for higher level planning than the AOGs handle at the local level.

Mr. Galecki asked about the \$200,000 team coordination and strategy expense and acknowledged that they didn't do the categorization. Was it internal or for the Coalition strategy?

Mr. McKee indicated it was categorized a little different than he would categorize it and items went into different buckets.

Mr. Barton's assumption was that it's related to the \$1.7 million Eastern Utah Infrastructure Study. A world class team was assembled including HDR engineering which is an international firm with deep expertise, premier traffic planners who do work for UDOT and several sub consultants which required team coordination.

Mr. Galecki referred to the expenses for existing planning and infrastructure data gathering and organization, existing corridor analysis, corridor development prioritization and analysis, and vital corridor revenue-generating and asked if it was available to share with the State.

Mr. Barton indicated there to be a vast GIS data base of infrastructure data both existing as well as planned.

Mr. Galecki asked about distribution to CIB planners, counties or statewide.

Mr. McKee stated it is available with the exception of information that's password protected coming from companies which is proprietary information.

Mr. Zeenati asked if one of the counties were to retire from the Coalition, is it sustainable or does one particular county nullify the By-Laws?

Mr. McKee indicated that the other counties would remain and stated that other counties are interested. If a county retired it would not make the Coalition insoluble. Grand County might want to be part of this. The rural issues in eastern Utah are a similar.

Commissioner Ogden asked if the Coalition is mainly focused on mineral leasing counties.

Mr. McKee indicated that Mineral Lease money comes primarily from the seven counties.

Commissioner Potter added that he is the sole remaining Coalition member on the CIB Board soon to be departed. He referred to the true impact of job loss. If the mineral jobs go away, the permanency of CIB and what CIB does goes away. The ultimate responsibility is to the citizens who are truly impacted. There is one shot to preserve a corridor that may be vital to the future development; be it coal or oil or gas. The eastern side of Utah does not have representation on a State legislative basis. There is one senator and one representative. Unemployment is eight, nine or ten at times. They cannot waste coming in and getting more dollars for a specific project unless it pencils out. The railroad would have been a big win for a number of counties in the State of Utah, but it did not pencil out. As elected officials, there is a responsibility to taxpayers and the mineral producers within the respective counties. He said that what has been done through the Coalition has been in the common good for the Community Impact Board or for the respective counties. He expressed a desire to protect what the Coalition can do, and might be able to do going into the future.

Mr. Damschen also expressed a hope for success, not questioning the need but indicated the clock is running and a lot of money is being spent. He asked if their communities could use 3 million dollars. If there isn't success in finding a viable project, it will be \$5 million, \$10 million and asked the rhetorical question: Is that a reasonable investment to make? It is his obligation to ask the questions and he was not on the Board when Coalition funding was approved. The Coalition needs to be accountable, transparent and efficient, not doubting intentions. As a Board, there is a responsibility to assure effective use of the funds.

Mr. McKee indicated there to be good opportunities and projects not ready for public information which will address some concerns discussed. The Coalition is working hard and suggested a closed session. He expressed optimism with things that are happening and indicated a desire to discuss developments at the appropriate time.

Chairman Heaton stated a desire for the Board to hear about those developments as soon as possible and expressed appreciation to the Coalition for answering the Board's questions. Thank you to the Board. It's been a very long meeting.

## **ADJOURNMENT**

The next regularly scheduled meeting of the Permanent Community Impact Fund Board will be on Thursday, August 3, 2017 in the Department of Environmental Quality's Board Room at the Multi-Agency State Office Building, 195 North 1950 West, Salt Lake City.

This meeting adjourned at 12:55 p.m.

Submitted by:

July 6, 2017 CIB Minutes

Cristine Rhead